MONTANA LEGISLATIVE HISTORY

Chapter 530 ~~No~~ 2001

Bill H 563 S _____ Original bill & history ✓ C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) 2-16	✓ C	Hearing Date(s) 3-15	✓ C
2-17	✓ C	3-23	✓ C
_____	____ C	_____	____ C
_____	____ C	_____	____ C
Date Out _____	____ C		

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	05/01/2001			
(H) Signed by Governor	05/01/2001			
(H) Transmitted to Governor	04/21/2001			
(S) Signed by President	04/21/2001			
(H) Signed by Speaker	04/19/2001			
(C) Sent to Printing	04/16/2001			
(H) Returned from Enrolling	04/16/2001			
(H) Sent to Enrolling	04/13/2001			
(H) 3rd Reading Passed as Amended by Senate	04/13/2001	86	14	
(H) Scheduled for 3rd Reading	04/13/2001			
(H) 2nd Reading Senate Amendments Concurred	04/12/2001	90	9	
(H) Scheduled for 2nd Reading	04/12/2001			
(S) Returned to House with Amendments	03/27/2001			
(S) 3rd Reading Concurred	03/27/2001	48	0	
(S) Scheduled for 3rd Reading	03/27/2001			
(S) 2nd Reading Concurred on Voice Vote	03/26/2001	37	0	
(S) Scheduled for 2nd Reading	03/26/2001			
(C) Sent to Printing	03/23/2001			
(S) Committee Report--Bill Concurred as Amended	03/23/2001			(S) Judiciary
(S) Committee Executive Action--Bill Concurred as Amended	03/23/2001	7	0	(S) Judiciary
(S) Hearing	03/15/2001			(S) Judiciary
(S) Referred to Committee	02/28/2001			(S) Judiciary
(S) First Reading	02/28/2001			
(H) Transmitted to Senate	02/22/2001			
(H) 3rd Reading Passed	02/22/2001	68	32	
(H) Scheduled for 3rd Reading	02/22/2001			
(H) 2nd Reading Passed	02/21/2001	54	45	
(H) Scheduled for 2nd Reading	02/21/2001			
(C) Sent to Printing	02/19/2001			
(H) Committee Report--Bill Passed as Amended	02/17/2001			(H) Judiciary
(H) Committee Executive Action--Bill Passed as Amended	02/17/2001	16	4	(H) Judiciary
(H) Hearing	02/16/2001			(H) Judiciary

(C) Introduced Bill Text Available Electronically	02/15/2001			
(H) Referred to Committee	02/13/2001			(H) Judiciary
(H) First Reading	02/13/2001			
(H) Introduced	02/13/2001			
(C) Draft Delivered to Requester	02/12/2001			
(C) Draft Ready for Delivery	02/07/2001			
(C) Draft in Assembly/Executive Director Review	02/06/2001			
(C) Draft in Final Drafter Review	02/06/2001			
(C) Bill Draft Text Available Electronically	02/06/2001			
(C) Draft in Input/Proofing	02/06/2001			
(C) Draft to Drafter - Edit Review [SAB]	02/05/2001			
(C) Draft in Edit	02/05/2001			
(C) Draft in Legal Review	02/03/2001			
(C) Draft to Requester for Review	01/29/2001			
(C) Draft On Hold	12/12/2000			
(C) Draft Request Received	12/05/2000			

HOUSE BILL NO. 563

INTRODUCED BY P. CLARK

A BILL FOR AN ACT ENTITLED: "AN ACT ADDING CERTAIN SEXUAL OFFENSES TO THE LIST OF OFFENSES FOR WHICH A PROSECUTION MAY BE COMMENCED AT ANY TIME; AND AMENDING SECTION 45-1-205, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-1-205, MCA, is amended to read:

"**45-1-205. General time limitations.** (1) (a) A prosecution for deliberate, mitigated, or negligent homicide may be commenced at any time.

(b) A prosecution for an offense under 45-5-502, 45-5-503, or 45-5-507(4) may be commenced at any time.

~~(b)~~ (c) A prosecution under ~~45-5-502 through~~ 45-5-504, 45-5-505, 45-5-507 (1), (2), (3), or (5), 45-5-625, or 45-5-627 may be commenced within 5 years after the victim reaches ~~the age of~~ 18 years of age if the victim was less than 18 years ~~old~~ of age at the time that the offense occurred.

(2) Except as provided in subsection (7)(b) or as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

(a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination of the minority or incompetency;

(b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the

offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(4) The period prescribed in subsection (2) must be extended in a prosecution for unlawful use of a computer, and prosecution must be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(5) The period prescribed in subsection (2) is extended in a prosecution for misdemeanor fish and wildlife violations under Title 87, and prosecution must be brought within 3 years after an offense is committed.

(6) The period prescribed in subsection (2)(b) is extended in a prosecution for misdemeanor violations of the laws regulating the activities of outfitters and guides under Title 37, chapter 47, and prosecution must be brought within 3 years after an offense is committed.

(7) (a) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed.

(b) A prosecution for theft under 45-6-301 may be commenced at any time during the 5 years following the date of the theft, whether or not the offender is in possession of or otherwise exerting unauthorized control over the property at the time the prosecution is commenced. After the 5-year period ends, a prosecution may be commenced at any time if the offender is still in possession of or otherwise exerting unauthorized control over the property, except that the prosecution must be commenced within 1 year after the investigating officer discovers that the offender still possesses or is otherwise exerting unauthorized control over the property.

(8) A prosecution is commenced either when an indictment is found or an information or complaint is filed."

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on February 16, 2001 at 7:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Steven Gallus (D)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **HB 603 - 2-15-01**
HB 585 - 2-15-01
HB 563 - 2-15-01

Carl Schweitzer, American Subcontractors Association of Montana.

Opponents: None

Informational Witness: **Jacqueline Lenmark, American Insurance Association. Also speaking for Greg Van Horssen, on behalf of State Farm Insurance.**

{Tape : 2; Side : A; Approx. Time Counter : 6.4 - 29.8}

Questions from Committee Members and Responses: **Reps. Harris, Noennig, Peterson, Clancy, Mangan.**

Closing by Sponsor: **Rep. Noennig closed the Hearing on HB 560.**

HEARING ON HB 563

Sponsor: **Rep. Paul Clark, HD 72, Trout Creek** said this Bill is a simple companion Bill to his DNA Bill. Now there is a statute of limitations for all felonies in the State of Montana which is limited to five years. That's true for all felonies except for deliberate, mitigated, or negligent homicide which may be commenced at any time.

This Bill would add certain sexual offenses to the list of offenses for which a prosecution may be commenced at any time.

Proponents: **John Connor, Attorney General's Office and Montana County Attorneys' Association,** said this Bill makes good public policy sense to not close the door on the opportunity to prosecute these cases if the evidence is there. He believes people ought to be responsible for their actions and if they don't take responsibility for them then they ought to be held accountable through our judicial system.

Opponents: None

Questions from Committee Members and Responses: **Reps. Younkin to Mr. Connor, Peterson, Noennig, Laszloffy.**

Closing by Sponsor: **Rep. Clark closed the Hearing on HB 563.**

HOUSE OF REPRESENTATIVE

ROLL CALL

JUDICIARY COMMITTEE

DATE 2-16-01

NAME	PRESENT	ABSENT	EXCUSED
REP. JIM SHOCKLEY, CHAIR	✓		
REP. JEFF LASZLOFFY, V.C.	✓		
REP. PAUL CLARK, V.C.	✓		
REP. DARREL ADAMS	✓		
REP. GILDA CLANCY	✓		
REP. AUBYN CURTISS	✓		
REP. BILL EGGERS	✓		
REP. STEVE GALLUS			✓
REP. GAIL GUTSCHE	✓		
REP. CHRISTOPHER HARRIS	✓		
REP. LINDA HOLDEN	✓		
REP. JOAN HURDLE	✓		
REP. JEFF MANGAN	✓		
REP. BRAD NEWMAN	✓		
REP. MARK NOENNIG	✓		
REP. KEN PETERSON	✓		
REP. DIANE RICE	✓		
REP. BILL THOMAS	✓		
REP. MERLIN WOLERY	✓		
REP. CINDY YOUNKIN	✓		

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE 2-16-01

BILL NO. HB 563 SPONSOR(S) Rep. Clark

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
P O I	John Connor	Atty Gen. Office	MT Cty. Atty Assn.
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony

S:\visitor register.frm

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on February 17, 2001 at 8:15 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Linda Holden (R)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **HB 604 - 2-16-01**

Executive Action: **HB 563 - DPAA**

Discussion: Reps. Laszloffy, Peterson, Mangan, Curtiss, Gutsche, Clark, Gallus.

Vote: Motion #7 that HJR 29 Do Pass carried unanimously 20-0.

EXECUTIVE ACTION ON HB 563

Motion: REP. CLARK moved that HB 563 DO PASS. #8

Motion: REP. PETERSON moved that HB 563 BE AMENDED. #9

Discussion: Mr. MacMaster explained the amendment.

Vote: Motion on Peterson amendment carried unanimously 20-0.

Motion: REP. GUTSCHE moved that HB 563 DO PASS AS AMENDED. #10

Discussion: Reps. Hurdle, Noennig, Laszloffy, Clark, Clancy, Harris, Younkin, Shockley.

Motion: REP. PETERSON moved that HB 563 BE AMENDED. #11

Substitute Motion/Vote: REP. GALLUS made a substitute motion that HB 563 BE AMENDED. #12 Motion carried 12-8 with Reps. Clark, Gutsche, Hurdle, Mangan, Newman, Noennig, Peterson and Younkin voting no.

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 29.6}

Discussion: Mr. MacMaster explained language.

Motion: REP. GALLUS moved that HB 563 BE AMENDED, conceptually, to add language described by Mr. MacMaster. #13

Discussion: Reps. Clark, Noennig, Mr. MacMaster, Shockley.

Vote: Motion #13, Gallus amendment, carried 17-3 with Reps. Newman, Noennig and Peterson voting no.

Motion/Vote: REP. CLARK moved that HB 563 DO PASS AS AMENDED. #14 Motion carried 16-4 with Reps. Newman, Noennig, Peterson and Younkin voting no.

EXECUTIVE ACTION ON HB 570

Motion: REP. SHOCKLEY moved that HB 570 DO PASS. #15

HOUSE OF REPRESENTATIVE

ROLL CALL

JUDICIARY COMMITTEE

DATE 2-12-01

NAME	PRESENT	ABSENT	EXCUSED
REP. JIM SHOCKLEY, CHAIR	✓		
REP. JEFF LASZLOFFY, V.C.	✓		
REP. PAUL CLARK, V.C.	✓		
REP. DARREL ADAMS	✓		
REP. GILDA CLANCY	✓		
REP. AUBYN CURTISS	✓		
REP. BILL EGGERS	✓		
REP. STEVE GALLUS	✓		
REP. GAIL GUTSCHE	✓		
REP. CHRISTOPHER HARRIS	✓		
REP. LINDA HOLDEN			
REP. JOAN HURDLE	✓		
REP. JEFF MANGAN	✓		
REP. BRAD NEWMAN	✓		
REP. MARK NOENNIG	✓		
REP. KEN PETERSON	✓		
REP. DIANE RICE	✓		
REP. BILL THOMAS	✓		
REP. MERLIN WOLERY	✓		
REP. CINDY YOUNKIN	✓		

House of Representatives

Roll Call Vote

JUDICIARY COMMITTEE

DATE 2-17-01 Bill NO. HB563 NUMBER #8

MOTION: Rep. Clark moved Do Pass

Name	AYE	NO
Rep. Jim Shockley, Chairman		
Rep. Jeff Laszloffy, Vice Chair Majority		
Rep. Paul Clark, Vice Chair Minority		
Rep. Darrel Adams		
Rep. Gilda Clancy		
Rep. Aubyn Curtiss		
Rep. Bill Eggers		
Rep. Steve Gallus		
Rep. Gail Gutsche		
Rep. Christopher Harris		
Rep. Linda Holden		
Rep. Joan Hurdle		
Rep. Jeff Mangan		
Rep. Brad Newman		
Rep. Mark Noennig		
Rep. Ken Peterson		
Rep. Diane Rice		
Rep. Bill Thomas		
Rep. Merlin Wolery		
Rep. Cindy Younkin		

House of Representatives

Roll Call Vote

JUDICIARY COMMITTEE

DATE 2-17-01 Bill NO. HB 563 NUMBER #9

MOTION: Rep. Peterson moved an amendment

Motion carried unanimously

Name	AYE	NO
Rep. Jim Shockley, Chairman	✓	
Rep. Jeff Laszloffy, Vice Chair Majority	✓	
Rep. Paul Clark, Vice Chair Minority	✓	
Rep. Darrel Adams	✓	
Rep. Gilda Clancy	✓	
Rep. Aubyn Curtiss	✓	
Rep. Bill Eggers	✓	
Rep. Steve Gallus	✓	
Rep. Gail Gutsche	✓	
Rep. Christopher Harris	✓	
Rep. Linda Holden	✓	
Rep. Joan Hurdle	✓	
Rep. Jeff Mangan	✓	
Rep. Brad Newman	✓	
Rep. Mark Noennig	✓	
Rep. Ken Peterson	✓	
Rep. Diane Rice	✓	
Rep. Bill Thomas	✓	
Rep. Merlin Wolery	✓	
Rep. Cindy Younkin	✓	

20 0

House of Representatives

Roll Call Vote

JUDICIARY COMMITTEE

DATE 2-17-01 Bill NO. HB563 NUMBER #10

MOTION: Rep. Gutsche moved DPAA

Name	AYE	NO
Rep. Jim Shockley, Chairman		
Rep. Jeff Laszloffy, Vice Chair Majority		
Rep. Paul Clark, Vice Chair Minority		
Rep. Darrel Adams		
Rep. Gilda Clancy		
Rep. Aubyn Curtiss		
Rep. Bill Eggers		
Rep. Steve Gallus		
Rep. Gail Gutsche		
Rep. Christopher Harris		
Rep. Linda Holden		
Rep. Joan Hurdle		
Rep. Jeff Mangan		
Rep. Brad Newman		
Rep. Mark Noennig		
Rep. Ken Peterson		
Rep. Diane Rice		
Rep. Bill Thomas		
Rep. Merlin Wolery		
Rep. Cindy Younkin		

House of Representatives

Roll Call Vote

JUDICIARY COMMITTEE

DATE 2-17-01 Bill NO. HB 563 NUMBER #11

MOTION: Rep. Peterson moved an amendment to 20 years

Name	AYE	NO
Rep. Jim Shockley, Chairman		
Rep. Jeff Laszloffy, Vice Chair Majority		
Rep. Paul Clark, Vice Chair Minority		
Rep. Darrel Adams		
Rep. Gilda Clancy		
Rep. Aubyn Curtiss		
Rep. Bill Eggers		
Rep. Steve Gallus		
Rep. Gail Gutsche		
Rep. Christopher Harris		
Rep. Linda Holden		
Rep. Joan Hurdle		
Rep. Jeff Mangan		
Rep. Brad Newman		
Rep. Mark Noennig		
Rep. Ken Peterson		
Rep. Diane Rice		
Rep. Bill Thomas		
Rep. Merlin Wolery		
Rep. Cindy Younkin		

House of Representatives

Roll Call Vote

JUDICIARY COMMITTEE

DATE 2-17-01 Bill NO. NB 563 NUMBER #12

MOTION: Rep. Gallus moved a substitute amendment to 15 years

Motion carried 12-8

Name	AYE	NO
Rep. Jim Shockley, Chairman	✓	
Rep. Jeff Laszloffy, Vice Chair Majority	✓	
Rep. Paul Clark, Vice Chair Minority		✓
Rep. Darrel Adams	✓	
Rep. Gilda Clancy	✓	
Rep. Aubyn Curtiss	✓	
Rep. Bill Eggers	✓	
Rep. Steve Gallus	✓	
Rep. Gail Gutsche		✓
Rep. Christopher Harris	✓	
Rep. Linda Holden	✓	
Rep. Joan Hurdle		✓
Rep. Jeff Mangan		✓
Rep. Brad Newman		✓
Rep. Mark Noennig		✓
Rep. Ken Peterson		✓
Rep. Diane Rice	✓	
Rep. Bill Thomas	✓	
Rep. Merlin Wolery	✓	
Rep. Cindy Younkin		✓

12 8

House of Representatives

Roll Call Vote

JUDICIARY COMMITTEE

DATE 2-17-01 Bill NO. NB563 NUMBER #13

MOTION: Rep. Gallus moved a conceptual amendment. Motion carried. 17-3

Name	AYE	NO
Rep. Jim Shockley, Chairman	✓	
Rep. Jeff Laszloffy, Vice Chair Majority	✓	
Rep. Paul Clark, Vice Chair Minority	✓	
Rep. Darrel Adams	✓	
Rep. Gilda Clancy	✓	
Rep. Aubyn Curtiss	✓	
Rep. Bill Eggers	✓	
Rep. Steve Gallus	✓	
Rep. Gail Gutsche	✓	
Rep. Christopher Harris	✓	
Rep. Linda Holden	✓	
Rep. Joan Hurdle	✓	
Rep. Jeff Mangan	✓	
Rep. Brad Newman		✓
Rep. Mark Noennig		✓
Rep. Ken Peterson		✓
Rep. Diane Rice	✓	
Rep. Bill Thomas	✓	
Rep. Merlin Wolery	✓	
Rep. Cindy Younkin		

17 3

House of Representatives

Roll Call Vote

JUDICIARY COMMITTEE

DATE 2-17-01 Bill NO. NB563 NUMBER #14

MOTION: Rep. Clark moved DPAA

Motion Carried 16-4

Name	AYE	NO
Rep. Jim Shockley, Chairman	✓	
Rep. Jeff Laszloffy, Vice Chair Majority	✓	
Rep. Paul Clark, Vice Chair Minority	✓	
Rep. Darrel Adams	✓	
Rep. Gilda Clancy	✓	
Rep. Aubyn Curtiss	✓	
Rep. Bill Eggers	✓	
Rep. Steve Gallus	✓	
Rep. Gail Gutsche	✓	
Rep. Christopher Harris	✓	
Rep. Linda Holden	✓	
Rep. Joan Hurdle	✓	
Rep. Jeff Mangan	✓	
Rep. Brad Newman		✓
Rep. Mark Noennig		✓
Rep. Ken Peterson		✓
Rep. Diane Rice	✓	
Rep. Bill Thomas	✓	
Rep. Merlin Wolery	✓	
Rep. Cindy Younkin		✓

16 4

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Judiciary** report that **House Bill 563** (first reading copy - white) do **pass as amended.**

Signed: _____
Representative Jim Shockley, Chair

And, that such amendments read:

1. Title, page 1, line 4.
Strike: "ADDING"
Insert: "INCREASING THE TIME DURING WHICH A PERSON MAY BE CHARGED FOR"
Strike: "TO THE LIST OF"

2. Title, page 1, line 5.
Strike: "OFFENSES" through "TIME"

3. Page 1, line 13.
Strike: "an"
Insert: "a felony"

4. Page 1, line 14.
Strike: "at any time"
Insert: "within 15 years after it is committed, except that it may be commenced within 15 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred. A prosecution for a misdemeanor offense under those provisions may be commenced within 1 year after the offense is committed, except that it may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred"

- END -

Committee Vote:
Yes 16, No 4.

401348SC.hdc

HOUSE BILL NO. 563

INTRODUCED BY P. CLARK

A BILL FOR AN ACT ENTITLED: "AN ACT ~~ADDING~~ INCREASING THE TIME DURING WHICH A PERSON MAY BE CHARGED FOR CERTAIN SEXUAL OFFENSES ~~TO THE LIST OF OFFENSES FOR WHICH A PROSECUTION MAY BE COMMENCED AT ANY TIME~~; AND AMENDING SECTION 45-1-205, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-1-205, MCA, is amended to read:

"**45-1-205. General time limitations.** (1) (a) A prosecution for deliberate, mitigated, or negligent homicide may be commenced at any time.

(b) A prosecution for ~~an~~ A FELONY offense under 45-5-502, 45-5-503, or 45-5-507(4) may be commenced ~~at any time~~ WITHIN 15 YEARS AFTER IT IS COMMITTED, EXCEPT THAT IT MAY BE COMMENCED WITHIN 15 YEARS AFTER THE VICTIM REACHES 18 YEARS OF AGE IF THE VICTIM WAS LESS THAN 18 YEARS OF AGE AT THE TIME THAT THE OFFENSE OCCURRED. A PROSECUTION FOR A MISDEMEANOR OFFENSE UNDER THOSE PROVISIONS MAY BE COMMENCED WITHIN 1 YEAR AFTER THE OFFENSE IS COMMITTED, EXCEPT THAT IT MAY BE COMMENCED WITHIN 5 YEARS AFTER THE VICTIM REACHES 18 YEARS OF AGE IF THE VICTIM WAS LESS THAN 18 YEARS OF AGE AT THE TIME THAT THE OFFENSE OCCURRED.

~~(b)~~(c) A prosecution under ~~45-5-502 through~~ 45-5-504, 45-5-505, 45-5-507 (1), (2), (3), or (5), 45-5-625, or 45-5-627 may be commenced within 5 years after the victim reaches ~~the age of~~ 18 years of age if the victim was less than 18 years ~~old~~ of age at the time that the offense occurred.

(2) Except as provided in subsection (7)(b) or as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

(a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination of the minority or incompetency;

(b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(4) The period prescribed in subsection (2) must be extended in a prosecution for unlawful use of a computer, and prosecution must be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(5) The period prescribed in subsection (2) is extended in a prosecution for misdemeanor fish and wildlife violations under Title 87, and prosecution must be brought within 3 years after an offense is committed.

(6) The period prescribed in subsection (2)(b) is extended in a prosecution for misdemeanor violations of the laws regulating the activities of outfitters and guides under Title 37, chapter 47, and prosecution must be brought within 3 years after an offense is committed.

(7) (a) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed.

(b) A prosecution for theft under 45-6-301 may be commenced at any time during the 5 years following the date of the theft, whether or not the offender is in possession of or otherwise exerting unauthorized control over the property at the time the prosecution is commenced. After the 5-year period ends, a prosecution may be commenced at any time if the offender is still in possession of or otherwise exerting unauthorized control over the property, except that the prosecution must be commenced within 1 year after the investigating officer discovers that the offender still possesses or is otherwise exerting unauthorized control over the property.

(8) A prosecution is commenced either when an indictment is found or an information or complaint is filed."

- END -

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 15, 2001 at 9:05 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Walter McNutt (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)

Members Excused: None.

Members Absent: None.

Staff Present: Anne Felstet, Committee Secretary
Valencia Lane, Legislative Branch
Jodi Pauley, Transcriptionist

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearings and Dates Posted: HB 290, HB 360, HB 434, HB 563
Executive Action: HB 560

HEARING ON HB 290

Sponsor: **REP. BUTCH WADDILL, HD 62, Florence**

Proponents:

Kirsten LaCroix, Missoula Co. Prosecutor
Kelly Cogley, Women's Law Caucus-U.M.
Julie Johnson, Women's Law Caucus

letter from Sanders County. He said seldom is physical violence utilized when dealing with young children as it is not needed. He said when these acts cross the line the child is paralyzed with fear. He said this bill is not intended to create unintended consequences for teenagers. He said they came up with 13 years old as they had to define at what age is was impossible for a child to give consent. He urged passage of HB 360.

HEARING ON HOUSE BILL 563

Sponsor: **REP. PAUL CLARK**, HD 72, Trout Creek

Proponents: **Pam Bucy, Assistant Attorney General**

Opponents: None

Opening Statement by Sponsor: **REP. PAUL CLARK**, HD 72, Trout Creek, said this is a broad policy issue. He said right now the statute of limitation for felonies other than murder is five years. He said it has come to his attention that a perpetrator can commit four rapes in 15 years. If he is caught on the fourth rape he will be tried as a first time offender. He said right now they give rapists license to start all over again in five years. He said this is a big policy decision that many other states are also being faced with. He said they give certain considerations for murder that go above and beyond all other considerations, however to have an unending amount of time to prosecute a murder and only five years for rape is unbalanced. He said the crimes being considered here are sexual assault, rape and incest.

Proponents' Testimony: **Pam Bucy**, Assistant Attorney General, said the reason they have statute of limitations is because evidence does disappear over time and it is difficult for prosecutors to prosecute cases and for defendants to defend themselves. DNA testing has changed all of that as it does not go away and is helping prosecutors and defendants. She said the crimes that this bill is addressing are as important as murder charges. ***{Tape : 3; Side : A; Approx. Time Counter : 0 - 7.3}***

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. HALLIGAN said if they can use DNA evidence forever why is there a time limit on the bill. **REP. CLARK** said this was amended in the House and he is not sure why a time limit was put on except that maybe they were leaping too far too soon. This was a compromise from no statute of limitations to five years.

SEN. HALLIGAN said if the Senate amended to leave the misdemeanor statute of limitation in the bill and to take out the felony limitation would this pass in a conference committee. **REP. CLARK** said he supported that and felt the House would go for that also.

SEN. GRIMES said they are considering statute of limitation on some of their worse offenses because of DNA technology that they didn't have in prior years. He asked if they had thought of the implications on some of the other serious offenses under level two as this is a level three offense. He said they have mitigated homicide, aggravated kidnapping, etc. that are under level three and they cannot be done in this bill, but will have to be probably dealt with in the future. **Pam Bucy** said this is a new area in the law and the state and prosecutors are just starting to learn about this. She felt there would be more bills like this in the future as they use DNA technology more.

SEN. GRIMES said under level three offenses they don't only have 502, 503, 507 sections but also the 625 section and had this been considered as well. **REP. CLARK** said originally the wording was going to be wherever DNA data is present and conclusive for any statute. But it was decided that this was too big of a step, but eventually this is going to happen with the collection of DNA anyway and will eliminate many statutes of limitations.

SEN. HOLDEN said he is not concerned with the DNA gathering, but when someone is charged with sexual offenses and there is a statute of limitation of 15 years and there is other evidence involved beside DNA how does this affect the issue. **REP. CLARK** said he has thought about that and this is why he considers it a policy issue. He said if they have a crime of murder they have the same type of evidence as they do with any other crime, however there is no statute of limitation on murder. He said he felt there is injustice being served right now because if someone is a rapist, they can commit four rapes in 15 years and it is still considered a first time offense and that is absurd.

SEN. O'Neil asked how conclusive is DNA on an incest case where the DNA needs to be some of the mother and father. **Pam Bucy** said she prosecuted an incest case of brother and sister and they could clearly distinguish between the two. She said if all they have is DNA, no prosecutor would bring a case forward anyway.

SEN. O'Neil asked if this bill is also taking into consideration all of the other cases that doesn't include DNA. **Pam Bucy** said yes it does.

Closing by Sponsor:

REP. CLARK said this bill is asking the question of what crimes should there be a statute of limitations and if there is a statute of limitation why not have one for murder also. He urged passage of HB 563. *{Tape : 3; Side : A; Approx. Time Counter : 7.3 - 21.6}*

EXECUTIVE ACTION ON HOUSE BILL 560

Motion: **REP. O'NEIL** moved HB 560 **BE CONCURRED IN.**

Discussion:

SEN. GRIMES said this could apply to other cases as well and this a good first step. He asked what about the word written on line 14 and line 24. **Valencia Lane**, Legislative Staff, said this is a good change. She said if there is a dispute in the terms it is good to have it written down.

SEN. GRIMES said not only can a settlement be offered by the defendant but also by the plaintiff. **Valencia Lane** explained the language on lines 19-21, and said this is not common because it does allow the plaintiff to make an offer.

SEN. GRIMES said perhaps it should be amended so that it is prorated. They would get a prorated portion of the attorney fees depending on how much the difference was.

SEN. O'Neil said he felt they are beyond their jurisdiction to even consider this bill. Article 7-2-3 says the Supreme Court may make rules governing practice and procedure for all other courts. He read rule 68 of the rules and procedures of this statute. He said they are amending rules that the Supreme Court has made.

Motion: **SEN. O'Neil** withdrew his motion. *{Tape : 4; Side : A; Approx. Time Counter : 0 - 2.9}*

DATE March 15, 2001

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 290, HB 360, HB 434, HB 563

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
MARK MURPHY	444-2026	A.G.'s OFFICE	HB 360	X	
Pam Bucy	444-2026	" "	HB 290 563	X	
KIRSTEN LA CROIX	523 4737	Missoula County	"	X	
RICHARD DOTTAVIO	527-4694	MISSOULA POLICE	HB 290	X	
Mike Barrett	443 2195	SELF; multi-racial tgender htrsxl. tgay philosi law interests INFORMALLY	" 290 " 360	✓	
James Bekier	549-8746	Women's Law Caucus	360 290	✓	
Julie Johnson	543-2592	" Women's Law Caucus "	~~360~~ 290	✓	
Diana Garrett	327-8722	WLC	~~360~~ 290	✓	
Kelly Coglee		Womens Law Caucus	~~360~~ 290	✓	
JONDAN. MOON	826-6666	children	360	X	
Mary T Moon	826-6666	myself	360	X	
Dallas D Erickson	777-5862	MCOL	290	X	
JOHN HALLOP	827-4929	MYSELF & YOUTH	360	X	
Jill Millan	442-6340	MTCC		X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 23, 2001 at 8:15 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Walter McNutt (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)

Members Excused: None.

Members Absent: None.

Staff Present: Anne Felstet, Committee Secretary
Valencia Lane, Legislative Branch
Jodi Pauley, Transcriptionist

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: HB 195, HB 208, HB 219, HB 254, HB 208, HB 261, HB 359, HB 521, HB 563, HJ 17, HB 496, HB 290, HB 570, HB 182

EXECUTIVE ACTION ON HB 195

Motion: **SEN. RIC HOLDEN moved HB 195 BE CONCURRED IN.**

Discussion:

SEN. MCNUTT stated a prosecuting attorney would have the list of enhancements and they should not limit it or have the misunderstanding that it was only pertaining to this list.

SEN. HALLIGAN said the act already had to be proved in the original case, charged in the information, complaint, indictment, and proved beyond a reasonable doubt. He didn't feel the list was needed.

Vote: **Substitute Motion carried 7-0 to the amendment with Sen. Doherty and Sen. Grosfield being excused.**

Substitute Motion/Vote: **SEN. HALLIGAN moved a conceptual amendment to strike subsection(5) on page two. Motion carried 7-0.**

Discussion: **SEN. GRIMES** discussed the bill and the ramifications of enhancement and how they would be applied. He wondered about subsection(3). **Valencia Lane** explained the subsection and mentioned a U.S. Supreme Court decision from October 1999, Apprendi vs. New Jersey. She discussed the case and said the court applied an enhancement statute at this time.

Motion/Vote: **SEN. HALLIGAN moved HB 521 BE CONCURRED IN AS AMENDED. Motion carried 7-0.**

{Tape 2; Side B}

EXECUTIVE ACTION ON HB 563

Motion: **SEN. O'NEIL moved HB 563 BE POSTPONED INDEFINITELY.**

Discussion:

SEN. HALLIGAN said they heard testimony in which two-thirds of the sexual cases were turned down because they cannot be proven. He said this bill allowed for the statute of limitations to be extended similar to homicide. He felt the bill was necessary because there were many victims who didn't come forward because they were embarrassed about what had happened.

SEN. GRIMES liked the thought of having an expanded statute of limitation to try and get some of these people. He had concern with someone trying to accuse their father of incest, for example, years later when it didn't even happen.

SEN. O'NEIL said they already have a statute of limitation for five to eight years after the victim reaches the age of 21 and this was longer than anything they have, except for murder.

SEN. GRIMES agreed people changed, but they still have to be responsible for their actions. He stated the reasons they could not do this was due to DNA and a case probably wouldn't be brought up unless there was DNA evidence. **Valencia Lane** said mental and emotional strengths of the victims, who want to bring their cases forward, was the situation.

SEN. O'NEIL said DNA was not in the bill anywhere. **SEN. GRIMES** said this could also apply to areas of date rape and it would be very hard to recall the circumstances 15 years later.

Vote: **Motion failed 1-6 to postpone indefinitely with Sen. O'Neil voting aye.**

Motion: **SEN. HALLIGAN moved HB 563 BE CONCURRED IN.**

Substitute Motion: **SEN. O'NEIL made a conceptual amendment to apply to cases only where DNA samples were available.**

Discussion:

SEN. MCNUTT said if they look at the three sections this law pertains to: assault, intercourse, and incest there was not going to be much DNA with these cases.

SEN. GRIMES felt incest was on the rise with the loosening of morals and this was wrong.

Vote: **Motion failed 1-6 on the amendment with Sen. O'Neil voting aye.**

Discussion:

SEN. GERALD PEASE said 15 years seemed like a long time. If a date rape occurred 15 years ago what effect does that take upon those people involved who now have families and jobs.

SEN. GRIMES said this was a concern, but these problems need to be addressed even though there could be some mischievousness.

SEN. PEASE said perhaps it could be changed to ten years. **SEN. RIC HOLDEN** said he would support that.

Motion: SEN. PEASE made a conceptual amendment to change the language from 15 years to 10 years. Motion carried 7-0.

Vote: Motion carried 6-1 with SEN. O'NEIL voting no that HB 563 BE CONCURRED IN AS AMENDED. SEN. GROSFIELD and DOHERTY were excused.

EXECUTIVE ACTION ON HJR 17

Discussion:

Valencia Lane discussed the amendments **EXHIBIT(jus66a05)**.

Motion/Vote: SEN. HALLIGAN moved HJR 17 BE TABLED. Motion carried 7-0 with SEN. GROSFIELD and DOHERTY being excused.

{Tape 3; Side A}

EXECUTIVE ACTION ON HOUSE BILL 496

Discussion:

Valencia Lane explained the amendments handed out **EXHIBIT(jus66a06)**. She also explained some informal amendments that accompanied the formal set **EXHIBIT(jus66a07)**.

Motion: SEN. GRIMES moved the amendments.

Discussion:

SEN. O'NEIL asked about the changes. **Valencia Lane** said this was amendment seven with a new Subsection(c).

SEN. O'NEIL asked if there was personal service, or was it only effective in writing. **Valencia Lane** said it was in subsection (b)1 and 2. Subsection (2) only dealt with mail service.

SEN. GRIMES asked if this was consented to on a case by case basis or could a process server have a contract or written agreement with a bank. **Steve Wade, Burlington Northern Santa Fe**, explained if a bank wanted to allow service by mail they could consent to the levying officer or sheriff and it could also be terminated.

SEN. O'NEIL asked how this applied if a writ was mailed to a person who was not a legal entity, but a person. **Steve Wade** said

Amendments to House Bill No. 563
3rd Reading Copy

For the Senate Judiciary Committee

Prepared by Valencia Lane
March 23, 2001 (12:17PM)

1. Page 1, line 14.
Strike: "15" in two places
Insert: "10"

- END -

SENATE STANDING COMMITTEE REPORT

March 23, 2001

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 563** (third reading copy - blue) **be concurred in as amended**.

Signed: _____
Senator Lorents Grosfield, Chair

To be carried by Senator Gerald Pease

And, that such amendments read:

1. Page 1, line 14.
Strike: "15" in two places
Insert: "10"

- END -

Committee Vote:
Yes 7, No 0.

661313SC.sjo

AN ACT INCREASING THE TIME DURING WHICH A PERSON MAY BE CHARGED FOR CERTAIN SEXUAL OFFENSES; AND AMENDING SECTION 45-1-205, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-1-205, MCA, is amended to read:

"45-1-205. General time limitations. (1) (a) A prosecution for deliberate, mitigated, or negligent homicide may be commenced at any time.

(b) A prosecution for a felony offense under 45-5-502, 45-5-503, or 45-5-507(4) may be commenced within 10 years after it is committed, except that it may be commenced within 10 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred. A prosecution for a misdemeanor offense under those provisions may be commenced within 1 year after the offense is committed, except that it may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.

~~(b)~~(c) A prosecution under ~~45-5-502 through~~ 45-5-504, 45-5-505, 45-5-507(1), (2), (3), or (5), 45-5-625, or 45-5-627 may be commenced within 5 years after the victim reaches ~~the age of~~ 18 years of age if the victim was less than 18 years ~~old~~ of age at the time that the offense occurred.

(2) Except as provided in subsection (7)(b) or as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

(a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination of the minority or incompetency;

(b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and

is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(4) The period prescribed in subsection (2) must be extended in a prosecution for unlawful use of a computer, and prosecution must be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(5) The period prescribed in subsection (2) is extended in a prosecution for misdemeanor fish and wildlife violations under Title 87, and prosecution must be brought within 3 years after an offense is committed.

(6) The period prescribed in subsection (2)(b) is extended in a prosecution for misdemeanor violations of the laws regulating the activities of outfitters and guides under Title 37, chapter 47, and prosecution must be brought within 3 years after an offense is committed.

(7) (a) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed.

(b) A prosecution for theft under 45-6-301 may be commenced at any time during the 5 years following the date of the theft, whether or not the offender is in possession of or otherwise exerting unauthorized control over the property at the time the prosecution is commenced. After the 5-year period ends, a prosecution may be commenced at any time if the offender is still in possession of or otherwise exerting unauthorized control over the property, except that the prosecution must be commenced within 1 year after the investigating officer discovers that the offender still possesses or is otherwise exerting unauthorized control over the property.

(8) A prosecution is commenced either when an indictment is found or an information or complaint is filed."

- END -